

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**JERRY J. MEEKS,
Plaintiff,**

v.

Case No. 14-CV-0850

**WISCONSIN RESOURCE CENTER,
PCT TOM,
PCT DAVE,
PCT EASTERN, and
JOSE CALLABRO,
Defendants,**

DECISION AND ORDER

Plaintiff, Jerry J. Meeks, who is proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 along with a motion for leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. By order dated July 24, 2014, I ordered plaintiff to forward to the Clerk of Court by August 14, 2014, the sum of \$92.92 as an initial partial filing fee in this action. Plaintiff was advised that, upon payment of this fee, I would determine whether the action can proceed in forma pauperis. This order was returned as undeliverable, but the court determined on August 4, 2014, that plaintiff was in custody at Columbia Correctional Institution and sent the order to plaintiff there. It has been more than a month since the order was resent, but plaintiff has not paid this initial partial filing fee. From this failure to pay the initial filing fee, I infer that plaintiff no longer wants to prosecute this action.

However, before dismissing this case for failure to pay the initial fee, I must determine whether the prisoner is at fault for the non-payment. See Thomas v. Butts, 745 F.3d 309, 312-13 (7th Cir. 2014). I may not dismiss the suit of a prisoner who has a lack

of funds in the account. Id. at 312; see also § 1915(b)(4) (“In no event shall a prisoner be prohibited from bringing a civil action . . . for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.”). “But if the court finds that the prisoner is unable to pay the partial filing fee at the time of collection because he intentionally depleted his account to avoid payment, the court in its sound discretion may dismiss the action.” Thomas, 745 F.3d at 312 (citations and internal quotation omitted).

THEREFORE, IT IS ORDERED that plaintiff shall show cause why this case should not be dismissed for nonpayment of the initial partial filing fee.

IT IS FURTHER ORDERED that on or before **October 6, 2014**, plaintiff shall provide the court with information regarding why the initial partial filing fee has not been paid.

IT IS ALSO ORDERED that a copy of this order be sent to the warden of the institution where the inmate is confined.

Dated at Milwaukee, Wisconsin, this 18th day of September, 2014.

s/ Lynn Adelman

LYNN ADELMAN
District Judge